

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

RP.No. 686 of 2004(J)

AGAINST THE JUDGEMENT IN WPC.8080/2004 Dated 09/03/2004

REVIEW PETITIONERS/RESPONDENTS.

- 1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL ADMINISTRATION (SPL.B) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE COMMISSIONER FOR RURAL DEVELOPMENT,
L.M.S.BUILDING, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

RESPONDENTS: PETITIONER.

**A.R.PRADEED KUMAR, ASSISTANT DEVELOPMENT
COMMISSIONER, NOW WORKING AS LECTURER, STATE
INSTITUTE OF RURAL DEVELOPMENT, E.T.C. P.O.
KOTTARAKKARA, KOLLAM DISTRICT.**

**BY ADV. SRI.ELVIN PETER P.J.
SRI.ELVIN PETER P.J.
SRI.P.N.SANTHOSH
SRI.S.RAMESH
SRI.NAVEEN.T**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. GIRI ,J.

R.P.NO.686 of 2004

Dated this the 31st day of October, 2007

JUDGMENT

The writ petitioner, while working as a Senior Grade Assistant in the General Administration Department was appointed as a Block Development Officer in the Rural Development Department. He joined duty on 14.10.1993. On 19/2/1998, the petitioner sought for re-patriation to the parent department. When he submitted Ext.P4, the petitioner was not yet confirmed as Block Development Officer in the Rural Development Department. Thereafter the petitioner submitted Ext.P6 representation claiming the benefit of the Full Bench decision of this Court in **Balakrishnan Nair v Ram Mohan Nair** (1998(1) KLT 766). The petitioner was then told that the Supreme Court had granted an order of status quo in the special leave petition against the aforementioned judgment. Subsequently the decision of the Full Bench was affirmed by the Supreme Court in **Ali v State of Kerala** (2003(2) KLT 922). Thereupon the petitioner renewed his request for re-patriation back to the parent department as Ext.P8.

2. The writ petition was filed for a direction that the petitioner be repatriated to his parent department on the basis of Ext.P8.

When the writ petition came up for admission, it seems that the Government Pleader had submitted that follow up action will be taken on Ext.P8. There is a controversy as to whether the government pleader had also undertaken that the petitioner will be accommodated in the parent department without delay. Review petition is filed in relation to the submission of the government pleader to the effect that the petitioner will be accommodated in the parent department.

3. It may also be necessary in this context to refer to certain events which took place subsequent to the judgment which is sought to be reviewed during the pendency of the review petition. The Commissioner of Rural Development proceeded to pass Annexure-R1 order (produced by the writ petitioner along with the counter affidavit) on 15.10.2005 (review petition is presented on 7.9.2004) by which 273 Block Development officers including the original petitioner was confirmed in the post of Block Development Officers. Some of them challenged Annexure-R1 order in W.P.(C) 23343/2004. The contention was that those persons who are listed in Ext.R1(a) had not completed their probation in the post of Block Development Officers and therefore they could not have been

confirmed in the said post. This Court accepted the contention and by judgment dated 13.7.2007, set aside the order, insofar as it affected the petitioners therein and held that the petitioners therein are liable to be repatriated to the Administrative Secretariat.

4. I heard the learned government pleader and the learned counsel for the writ petitioner. It may be true that when the writ petition came up for admission the government pleader only submitted that Ext.P8 will be considered and appropriate action will be taken. It may not have been open to the government pleader to give an undertaking, when the writ petition had only come up for admission, that the writ petitioner will actually be repatriated to the parent department. I find no reason not to accept the case put forward in the review petition. In the circumstances, the judgment dated 9.3.2004 in W.P.(C)8080/2004 is reviewed and the writ petition is restored to file.

V. GIRI, JUDGE

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